

## Berg, Elizabeth

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**From:** RHines@fbm.com  
**Sent:** Monday, July 08, 2013 2:21 PM  
**To:** Berg, Elizabeth  
**Subject:** RE: Follow-up from the Yosemite Slough attorneys meeting

Hi Thanne – hope you had a great 4<sup>th</sup> of July weekend.

Do you know how Abhik sent the materials? If sent (which I don't doubt!) we have not yet received. If you could follow up I would appreciate it.

Thanks.

-- Buzz

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**From:** Cox, Elizabeth [mailto:Cox.Elizabeth@epa.gov]  
**Sent:** Monday, July 08, 2013 2:02 PM  
**To:** Hines, Buzz (25) x4935  
**Subject:** RE: Follow-up from the Yosemite Slough attorneys meeting  
Buzz:

My investigator informed me that the materials were provided to you last week? Were there any problems? Please confirm. I want to make sure that we have followed through.

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**From:** RHines@fbm.com [mailto:RHines@fbm.com]  
**Sent:** Tuesday, June 25, 2013 2:21 PM  
**To:** Cox, Elizabeth; DUTTA, ABHIK  
**Subject:** RE: Follow-up from the Yosemite Slough attorneys meeting  
Could you please advise of status? Thanks.  
-- Buzz

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**From:** Hines, Buzz (25) x4935  
**Sent:** Tuesday, June 18, 2013 1:42 PM  
**To:** Cox, Elizabeth; DUTTA, ABHIK  
**Subject:** RE: Follow-up from the Yosemite Slough attorneys meeting

Thanne and Abhik – just wanted to check to see if you were still on track in sending me a disk this week with the info we discussed. Please let me know. I would be happy to send over a messenger to pick it up once it's ready.

Best regards,

Buzz

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**From:** Hines, Buzz (25) x4935  
**Sent:** Wednesday, June 05, 2013 1:44 PM  
**To:** Cox, Elizabeth  
**Cc:** DUTTA, ABHIK  
**Subject:** Re: Follow-up from the Yosemite Slough attorneys meeting

Great - I will see you then.

Please see my original email below regarding Coca-Cola's interest and objective in meeting.

Thanks

-- Buzz

Buzz Hines  
Farella Braun + Martel LLP  
(415) 954-4935  
[rhines@fbm.com](mailto:rhines@fbm.com)  
[www.fbm.com](http://www.fbm.com)

On Jun 5, 2013, at 1:24 PM, "Cox, Elizabeth" <[Cox.Elizabeth@epa.gov](mailto:Cox.Elizabeth@epa.gov)> wrote:

Buzz,

Yes, we are available tomorrow at 2. Is there some particular subject or issue we should be prepared to discuss?

Thanne

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**From:** [RHines@fbm.com](mailto:RHines@fbm.com) [<mailto:RHines@fbm.com>]

**Sent:** Tuesday, June 04, 2013 3:18 PM

**To:** Cox, Elizabeth; DUTTA, ABHIK

**Subject:** RE: Follow-up from the Yosemite Slough attorneys meeting

Thanks and yes – I was doing something fun. Visited my daughter in Panama where she's serving as a Peace Corps volunteer. Quick trip but amazing perspective gained in a short time.

Is the Thursday, June 6<sup>th</sup> slot still open for us to meet? I could come over at 2 or 2:30pm. I think we will need no more than an hour for the meeting. Please let me know if that will work.

Best regards,

Buzz

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**From:** Cox, Elizabeth [<mailto:Cox.Elizabeth@epa.gov>]

**Sent:** Thursday, May 30, 2013 2:28 PM

**To:** Cox, Elizabeth; Hines, Buzz (25) x4935; DUTTA, ABHIK

**Subject:** RE: Follow-up from the Yosemite Slough attorneys meeting

Revising my previous message. Abhik has to leave work early on those two days. Below is our revised availability. If not, I can look at the following week.

Tues June 4 – 2:00 to 3:30

Wednes June 5 – 10:30 to 12:00

Thurs June 6 – 2:00 to 3:30

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**From:** Cox, Elizabeth

**Sent:** Thursday, May 30, 2013 2:20 PM

**To:** '[RHines@fbm.com](mailto:RHines@fbm.com)'; DUTTA, ABHIK

**Subject:** RE: Follow-up from the Yosemite Slough attorneys meeting

Buzz:

I hope you are doing something fun this week. Abhik and I will both be in the office next week. We are generally available on Tues. (June 4) after 2 and Thursday (June 6) after 2:15. Would either of these windows work for you?

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**From:** [RHines@fbm.com](mailto:RHines@fbm.com) [<mailto:RHines@fbm.com>]

**Sent:** Monday, May 20, 2013 6:10 PM

**To:** Cox, Elizabeth; DUTTA, ABHIK

**Subject:** RE: Follow-up from the Yosemite Slough attorneys meeting

Hi there – just checking in to see if we might be able to schedule something in early June (I will be out next week). I could also meet this week, depending on when you might be available.

Best regards,

Buzz

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**From:** Hines, Buzz (25) x4935

**Sent:** Wednesday, May 15, 2013 2:01 PM

**To:** 'Cox, Elizabeth'; DUTTA, ABHIK

**Subject:** RE: Follow-up from the Yosemite Slough attorneys meeting

Thanne and Abhik – I represent Coca-Cola Refreshments USA (CCR) regarding the captioned matter.

Would it be possible to schedule a meeting at your earliest convenience to review the government's

liability case against CCR and the claimed nexus between CCR and its historic operations and the slough?

I understand from the meeting that you will not provide PRPs with the actual scorecard(s), but, it would be most helpful if we could meet and discuss the information you're relying on to connect CCR to the

cleanup of the slough. Please let me know if you will meet and some times next week or early June that we might do so (I am likely out the week of Memorial Day – the 27<sup>th</sup>).

Thanks and I look forward to hearing from you.

Best regards,

Buzz

**Robert L. Hines**

*Partner*

[rhines@fbm.com](mailto:rhines@fbm.com)

415.954.4935



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**From:** Cox, Elizabeth [<mailto:Cox.Elizabeth@epa.gov>]

**Sent:** Monday, May 13, 2013 11:47 AM

**To:** [allen.j.danzig@sherwin.com](mailto:allen.j.danzig@sherwin.com); Hines, Buzz (25) x4935; [bwick@ww-envlaw.com](mailto:bwick@ww-envlaw.com); Campbell Irving; David Alderson ; [dpc@costalaw.net](mailto:dpc@costalaw.net); Elaine M O'Neil; [JChen@bdlaw.com](mailto:JChen@bdlaw.com); [Jim.Thomas@dla.mil](mailto:Jim.Thomas@dla.mil); [kathryn.colson@slc.ca.gov](mailto:kathryn.colson@slc.ca.gov); Kenneth A. Ulrich; [ktobias@parks.ca.gov](mailto:ktobias@parks.ca.gov); [mark.a.zuschek@exxonmobil.com](mailto:mark.a.zuschek@exxonmobil.com); [Mark.Rigau@usdoj.gov](mailto:Mark.Rigau@usdoj.gov); [NvanAelstyn@bdlaw.com](mailto:NvanAelstyn@bdlaw.com); [robert.w.jackmore@exxonmobil.com](mailto:robert.w.jackmore@exxonmobil.com); Shari Posner; Victor Marquez; [www.klgates.com](http://www.klgates.com)

**Cc:** Cooper, Craig; DUTTA, ABHIK; Fong, YvonneW; Batson, David

**Subject:** Follow-up from the Yosemite Slough attorneys meeting

Counselors:

Thank you for participating in our May 9<sup>th</sup> Legal Meeting for the Yosemite Slough Site located in San Francisco, CA. As agreed to during our meeting, EPA staff assigned to the Yosemite Slough Site will reconsider the overall weight of evidence of potential CERCLA liability for all the facilities listed in David Batson's email of May 8. (That list is attached along with the sign-up sheet from the meeting.) Our reconsideration of these facilities will include the evidence of a release of any hazardous substance detected at elevated concentrations in Site sediment and the likelihood such hazardous substances contributed to Site contamination. Our re-evaluation will cover key information from records EPA compiled for these facilities, interviews, and the results of EPA's facility ranking system (as summarized in EPA's presentation on May 9<sup>th</sup> ). While conducting this re-evaluation process, we will also review facilities who provided no or less than adequate responses to EPA's 104(e) letters to determine whether some additional action is warranted.

EPA staff will brief R9 management on its findings on our re-evaluation of these selected facilities.

Although we will again endeavor to maintain a consistent and fair evaluation of all facilities who have already received general notice letter with those facilities still under consideration by EPA, please note that it is solely within EPA's discretion as the enforcement Agency under the statute to identify PRPs. At this management briefing, Staff will also make recommendations regarding using EPA's CERCLA Section 104(e) authority to facilitate PRP sampling of selected facility properties for evidence of a potential release of Site-related hazardous substances. On that last point, our assistance to provide access under CERCLA 104(e) would be predicated on a commitment from one or more of the PRPs to conduct such testing. We hope to let you know of the results of our re-evaluation process by June 30<sup>th</sup>.

As requested, EPA will release a list of parties that received CERCLA 104(e) letters along with the template EPA used for such letters. We will also provide records in EPA's possession, except for EPA work product, regarding the facilities listed in Mr. Batson's letter. We will consider waiving privilege regarding interviews we conducted. This information will be placed on CD and mailed out to all parties who attended our May 9<sup>th</sup> meeting.

As requested during our May 9<sup>th</sup> meeting, attached is a PDF of the Water Board's Order concerning the State Parks Yosemite Slough Wetlands Restoration Project. In addition, the following link will direct you to an ASTSWMO report regarding recontamination at sediment sites nationwide:

[http://www.astswmo.org/Files/Policies\\_and\\_Publications/CERCLA and Brownfields/2013-04-Sediment Remedies Effectiveness and Recontamination.pdf](http://www.astswmo.org/Files/Policies_and_Publications/CERCLA_and_Brownfields/2013-04-Sediment_Remedies_Effectiveness_and_Recontamination.pdf)

As explained during our meeting, EPA intends to proceed with release of a Draft EECA for general public review and comment this summer. Our current schedule is to finalize the EECA and issue an Action Memorandum in September 2013 which will be followed by EPA issuance of letters inviting all Site PRPs to engage in AOC negotiation over the payment of past costs and performance of the selected response action for the Site.

Please let me know if you have any questions.

Sincerely,

Thanne Berg

US EPA Region 9

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[cox.elizabeth@epa.gov](mailto:cox.elizabeth@epa.gov)

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\*\*\*\*\* ATTACHMENT NOT DELIVERED \*\*\*\*\*

This Email message contained an attachment named  
image001.jpg

which may be a computer program. This attached computer program could contain a computer virus which could cause harm to EPA's computers, network, and data. The attachment has been deleted.

This was done to limit the distribution of computer viruses introduced into the EPA network. EPA is deleting all computer program attachments sent from the Internet into the agency via Email.

If the message sender is known and the attachment was legitimate, you should contact the sender and request that they rename the file name extension and resend the Email with the renamed attachment. After receiving the revised Email, containing the renamed attachment, you can rename the file extension to its correct name.

For further information, please contact the EPA Call Center at (866) 411-4EPA (4372). The TDD number is (866) 489-4900.

\*\*\*\*\* ATTACHMENT NOT DELIVERED \*\*\*\*\*

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